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Government Liability for Use of Copyright Property

REMARKS
OF

HON. S. J. CRUMPACKER, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 8, 1955

Mr. CRUMPACKER. Mr. Speaker, it has long been an established principle that the Federal Government shall not appropriate private property without making just compensation to the owner thereof. The constitutional language on this point may be found in the provision of the fifth amendment which states: "nor shall private property be taken for public use without just compensation." For most types of property this constitutional provision has been implemented by legislation permitting a property owner to bring suit against the Federal Government when he believes that just compensation has not been made, as for example in the fields of admiralty, contracts, torts, and patents. In the case of patent property, section 1498 of title 28, United States Code, provides that—

Whenever an invention described in and covered by a patent of the United States is used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, the owner's remedy shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture.

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There is, however, one form of property, property in copyrights, for which existing law does not provide a definite, workable and equitable procedure for the property owner. There has been no specific legislative provision authorizing suits against the Government as there has long been for patents; and the legal situation is thus ambiguous. Federal officers and employees are personally liable for infringements of copyright done in the course of their official duties—*Towle v. Ross* (D. C., Oregon, 1940, 32 F. Supp. 125); but this is inadequate remedy for the copyright owner and also one which is inequitable for the Federal employee who may be ordered to take an action and then find himself held personally liable.

I have today introduced a bill (H. R. 6716) designed to correct this situation both with respect to the copyright owner and to Federal officers and employees. The bill is based in general upon the related provisions now existing for patents, but with modifications appropriate to the nature of copyright property. Provision is made for suits in the district courts as well as in the Court of Claims. In addition recourse to administrative remedy under the procedure of the Tort Claims Act is made available for claims up to \$1,000. During the next few months I hope that the various Government agencies, the bar associations and the several industry and professional groups concerned with copyright will review the bill carefully so that we may have the benefit of their suggestions and advice before proceeding with further legislative consideration.